

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GABRIEL FONTANA, et al.,)	
)	
Plaintiffs,)	2:10-cv-1685
)	Electronic Filing
v.)	
)	Judge Cercone
WILLIAM P. CORRY,)	Magistrate Judge Lenihan
)	
Defendant.)	ECF No. 3
)	
)	

MEMORANDUM ORDER

The Complaint in the above captioned case was received by the Clerk of Court on December 16, 2010, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (ECF No. 10), filed on August 30, 2011, recommended that the Motion to Dismiss the Complaint (ECF No. 3) filed by Defendant William P. Corry be granted without prejudice, and that Plaintiffs be allowed to file an amended complaint to cure the deficiencies identified in the Report and Recommendation. The magistrate judge further recommended that if Plaintiffs fail to file a curative amendment within the time frame allowed by this District Judge, the complaint be dismissed with prejudice. Service was made on all counsel of record. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had

fourteen (14) days to file any objections. No objections were filed to the Report and Recommendation.

After review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 26th day of September, 2011,

IT IS HEREBY ORDERED that the Motion to Dismiss the Complaint filed by Defendant William P. Corry is **GRANTED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that Plaintiff shall be allowed to file, within 14 days of the date of this Order, an amended complaint that cures the deficiencies identified in the Report and Recommendation. Failure to file an amended complaint by this deadline may result in dismissal with prejudice without further notice.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 10) of Magistrate Judge Lenihan, dated August 30, 2011, is adopted as the opinion of the Court.



DAVID STEWART CERCONE
United States District Judge

cc: Jonathan M. Kamin, Esquire
Thomas C. Gricks, III, Esquire

(Via CM/ECF Electronic Mail)